IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.14395 OF 2019

1) Bhartiya Kamgar Sena
Through its working President
Shri. Ashok Devisingh Pawar,
Age 48 years, Occu. Retired,
R/o New Hanuman Nagar,
Aurangabad, Tq. & Dist. Aurangabad.

2) Murlidhar s/o Narayanrao Sase,
Age: 7 year, Occ: Service as Laboratory Assistant,
And Unit President Bhartiya Kamgar Sena
Having its Unit at J.N.E.C. College, Aurangabad,
R/o Plot No.112, Galli No.2, New Hanuman Nagar,
Tq. & Dist. Aurangabad. ..Petitioners

VERSUS

1) State of Maharashtra
Through Principal Secretary,
Technical Education Department,
Mantralaya, Mumbai-32.

2) Joint Director of Technical Education,
Near Govt. Polytechnic Tech, College
Osmanpura, Post Box No. 516,
Aurangabad, Tq. Dist. Aurangabad.

3) The Regional Officer,
All India Council for Technical Education,
Industrial Assurance Building,
IInd Floor, V.N. Road, Church Gate,
Mumbai-400020.

4) The Chairman,
All India Council for Technical Education,
Nelson Mandela Marg,
Vasant Kunj, New Delhi-110 057.

5) The Registrar,
Dr. Babasaheb Ambedkar Marathwada University,
University Campus, Aurangabad,
Tq. & Dist. Aurangabad.

6) The Registrar,
Dr. Babasaheb Ambedkar Technological University
Vidya Vihar, Lonere, Raigad,
Tq. & Dist. Raigad- 402 103.

7) The Secretary,
Mahatma Gandhi Mission,
N-6, CIDCO, Aurangabad,
Tq. & Dist. Aurangabad.

8) The Principal,
Jawaharlal Nehru Engineering College,
N-6, CIDCO, Aurangabad,
Tq. & Dist. Aurangabad.

9) The MGM University
N-6, CIDCO, Baijiplira, Aurangabad 431003
Through its Registrar.

WITH
CIVIL APPLICATION NO.2912 OF 2024

1. Dr. Parminder Kaur Harbhajansingh Birdi
Age: 47 years, Occu.: Service,
R/o: N-6, Cidco, Aurangabad,
Tq. & Dist. Aurangabad.

2. Dr. Vijaya Bhaskarrao Musande,
Age: 52 years, Occu.: Service,
R/o: Vidya Niketan Colony, Aurangabad.

3. Dr. Sadanand Ghuhe,
Age: 50 years, Occu.: Service,
R/o: N-2, Cidco, Aurangabad.

4. Mrimal Ganpatrao Kashid,
Age: 47 years, Occu.: Service,
R/o: Sukhdev, J-43, Vijayshree Colony,
N-5, Cidco, Aurangabad.

5. Madhuri Bhaskarrao Kawarkhe,
Age: 35 years, Occu.: Service,
R/o: Flat No. 302, B-1, Disha Silver Woods,
Harsul T-Point, Aurangabad,
Tq. & Dist. Aurangabad.

6. Sunil Balkrishna Patil,
Age: 57 years, Occu.: Service,
R/o: Plot No. 16, Shreenagar Colony,
N-5, Sector-F, Cidco, Aurangabad.

7. Arun N. Bore,
Age: 50 years, Occu.: Service,
R/o: AH1/20, N-2, Cidco, Aurangabad,
Tq. & Dist. Aurangabad-431 003.

8. Reshma Ratnakar Kulkarni,
Age: 33 years, Occu.: Service,
R/o: Plot No. 12, "Alakrajna",
Shraddha Colony, N-2, Cidco,
Aurangabad.

9. Sachin Bhagwanrao Shelke,
Age: 36 years, Occu.: Service,
R/o: New Baijipura, Indira Nagar,
Aurangabad.

10. Madhura Rajendra Kulkarni,
Age: 31 years, Occu.: Service,
R/o: Plot No. 404-B, Sector-C, N-1, Cidco,
Aurangabad.

11. Pankaj Ganeshrao Dhoble,
Age: 36 years, Occu.: Service,
R/o: K-10, Flat No. 1/1, Gulmohar Colony,
N-5, Cidco, Aurangabad.

12. Mohammad Nizar Bargir,
Age: 36 years, Occu.: Service,
R/o: Saltanat Bungalow, Gut No. 99,
Plot No. 4, Satara Parisar, Aurangabad.

13. Vishal Vijay Ghatge,
Age: 29 years, Occu.: Service,
R/o: Sadyadri Nagar, Plot No. 7, Sai Prasad,
Pundlik Nagar Road, Aurangabad.

14. Akash Pralhad Barote,
Age: 30 years, Occu.: Service, R/o: N-11, Plot NO. 47/7,
Mayur Nagar,
Hudco, Aurangabad.

15. Rakhee Kulkarni, Age: 44 years,
Occu.: Servcie, R/o: "Surbhi Jyoti Nagar,
Aurangabad.

16. Madhura Atul Pujari,
Age: 33 years, Occu.: Service,
R/o: CIDCO N-9, Ranjanwan Society,
Aurangabad.

17. Niharika Kapoor,
Age: 28 years, Occu.: Service,
R/o: 'Pride Pheonix', Chikalthana,
Aurangabad.

18. Medha Naik,
Age: 42 years, Occu.: Service,
R/o: Vivekanand Nagar, N-4, Cidco,
Aurangabad.

19. Dr. Sharvari Chandrashekhar Tamane,
Age: 50 years, Occu.: Service,
R/o: 43/5, Renuka, Aditya Nagar,
Garkheda, Aurangabad.

20. Saranga Sahebrao Nawal,
Age: 45 years, Occu.: Service,
R/o: Uttaranagar, Chikalthana,
Aurangabad.

21. Suddhashul Ghosh,
Age: 49 years, Occu.: Service,
R/o: Vidyanagar, Aurangabad.

22. Syed Ahmed Naveed,
Age: 47 years, Occu.: Service,
R/o: Labour Colony,
Aurangabad.

23. Dr. Sunil Nilkant Pawar,
Age: 54 years, Occu.: Service,
R/o: 14, Krishnai, Dwarkadas Nagar, Beed By
Pass, Satara, Aurangabad.

24. Ramprakash Jijaji Shinde,
Age: 45 years, Occu.: Service,
R/o: 101, A-3, My World Apartment,

Chikalthana, Auarangabad.

25. Vilas Shankarrao Kumawat,
Age: 42 years, Occu.: Service,
R/o: Laxmitara Niwas, Tirupati Colony,
Saibhawani Nagar, New Cidco,
Aurangabad.

26. Shivraj Kisanrao Kadam,
Age: 29 years, Occu.: Service,
R/o: At. Post Limbgaon,
Tq. & Dist. Nanded.

27. Revati Shivdas Zare,
Age: 48 years, Occu.: Service,
R/o: 221, Ashiyad Colony, Near Guru Lawns,
Balapur, Beed By Pass, Aurangabad.

28. Manish K. Tarte
Age: 42 years, Occu.: Service,
R/o: P-19, Deep Nagar Housing Society,
Shahanoorwadi, Aurangabad.

29. Aban A Kadam,
Age: 31 years, Occu.: Service,
R/o: N-6, Cidco, Aurangabad.

30. Ajay Kailasrao Bhamble,
Age: 26 years, Occu.: Service,
R/o: Sairaj Nagar, Beed By Pass,
Aurangabad.

31. Nagorao Sheshrao Kadam,
Age: 34 years, Occu.: Service,
R/o: N-6, Cidco, Aurangabad.

32. Rohini Shirang Patil,
Age: 36 years, Occu.: Service,
R/o: Sutgirni Chowk, Garkheda,
Aurangabad.

33. Sakharam Bajirao Harkal,
Age: 38 years, Occu.: Service,
R/o: Plot No. 38, Mirajgave Vishwa,
Near Water Tank, Rameshwar Nagar, Deolali,
Aurangabad.

34. Balaji Uttamrao Pawar,
Age: 38 years, Occu.: Service,
R/o: Plot No. 19, Gut No. 131,
Vyankatesh Nagar, Pisadevi Road, Jadhavwadi,
Aurangabad.

35. Kishor Kailas Mate,
Age: 27 years, Occu.: Service,
R/o: N-6, Cidco, Aurangabad ..Applicants/Intervenors

Versus

1. Bhartiya Kamgar Sena
Through its working President
Shri. Ashok Devisingh Pawar,
Age 48 years, Occu. Retired,
R/o New Hanuman Nagar,
Aurangabad, Tq. & Dist. Aurangabad.

2. Murlidhar s/o Narayanrao Sase,
Age: 7 year, Occ: Service as Laboratory Assistant,
And Unit President Bhartiya Kamgar Sena
Having its Unit at J.N.E.C. College, Aurangabad,
R/o Plot No.112, Galli No.2, New Hanuman Nagar,
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3. The State of Maharashtra
Through Principal Secretary,
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Mantralaya, Mumbai-32.

4. Joint Director of Technical Education,
Near Govt. Polytechnic Tech, College
Osmanpura, Post Box No. 516,
Aurangabad, Tq. Dist. Aurangabad.

5. The Regional Officer,
All India Council for Technical Education,
Industrial Assurance Building,
IInd Floor, V.N. Road, Church Gate,
Mumbai-400020.

6. The Chairman,
All India Council for Technical Education,
Nelson Mandela Marg,

Vasant Kunj, New Delhi-110 057.

7. The Registrar,
Dr. Babasaheb Ambedkar Marathwada University,
University Campus, Aurangabad,
Tq. & Dist. Aurangabad.

8. The Registrar,
Dr. Babasaheb Ambedkar Technological University
Vidya Vihar, Lonere, Raigad,
Tq. & Dist. Raigad- 402 103.

9. The Secretary,
Mahatma Gandhi Mission,
N-6, CIDCO, Aurangabad,
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10. The Principal,
Jawaharlal Nehru Engineering College,
N-6, CIDCO, Aurangabad,
Tq. & Dist. Aurangabad.

11. The MGM University
Town Centre CIDCO,
Aurangabad 431003
Through its Registrar. ..Respondents

WITH
WRIT PETITION NO.13897 OF 2018

1. Bhartiya Kamgar Sena
Through its Unit Chairman
Shri Uttam Kisanrao Athawale,
Age 50 years, Occupation Service
as Security Guard on the establishment of
Mahatma Gandhi Mission's College of Engineering
Nanded, R/o Samata Nagar,
Near Pawdewadi Naka, Nanded
Tq. and Dist.Nanded

2. Dr. Deepak s/o Vijayrao Pattewar,
Age 52 years, Occupation Service
as Professor on the establishment of
Mahatma Gandhi Mission's College of Engineering
Nanded, R/o Vardan, Tilak Nagar,
Near Nehru English School,

Tq. and Dist.Nanded

3. Kasim S/o Rasulsab Sayed,
Age 52 years, Occu. Service,
R/o House No.1-15-1401,
Nandigram Colony, Sharda Nagar Road,
Nanded-5, Tq. & Dist. Nanded

4. Ravindrakumar s/o Kishtaiah Lakka,
Age 57 years, Occupation Service,
R/o Laxmi Nagar,
Near Hanuman Mandir, Nanded
Tq. and Dist.Nanded

5. Gurmeetsingh s/o Genda Singh Bhosiwale,
Age 50 years, Occupation Service,
R/o Near Gurudwara Gate No.2, Nanded,
Tq. & Dist.Nanded.

6. Devidas s/o Ramrao Panchal
Age 53 years, Occupation Service,
R/o Sriram Nagar, Behind Ujjwal Service center,
Nanded, Tq. & Dist. Nanded

7. Vivekanand s/o Ramdasrao Metkewar,
Age 36 years, Occu. Service,
R/o H.No.1-20-589, Datta Nagar,
Nanded, Tq. & Dist. Nanded

8. Ajay s/o Anil Unhale,
Age 33 years, Occu. Service,
R/o Triveni Nagar,
Near Chaitanya Nagar, Nanded
Tq. & Dist.Nanded

9. Vishwambhar s/o Rameshrao Sarsar,
Age 30 years, Occu. Service,
R/o H.No.5-4-18, Narsingh Galli,
Sarafa, Nanded Tq. & Dist. Nanded

10. Atul s/o Ashokrao Mane,
Age 30 years, Occu. Service,
R/o Adarsh Nagar, Wasim Road,
Pusad, Tq. Pusad, Dist. Yeotmal

11. Kiran s/o Prakash Popale,

Age 28 years, Occu. Service,
R/o Plot No.75, Ashtavinayak Nagar,
Tarada, Nanded, Tq. & Dist.Nanded

12. Pandurang s/o Parshuram Vadje,
Age 29 years, Occu. Service,
R/o Flat No.201, Wing A,
Usha Residency, Chikhalwadi Corner,
Nanded Tq. & Dist. Nanded

13. Prashant s/o Madhukarrao Painkar,
Age 40 years, Occu. Service,
R/o Venkateshwara Nagar,
Near Kabra Nagar, Nanded
Tq. & Dist. Nanded

14. Shripad s/o Subhashrao Deulkar,
Age 39 years, Occu. Service,
R/o Deep Nagar, Purna Road,
Nanded Tq. & Dist. Nanded

15. Shaikh Mubeen Hussain,
Age 41 years, occu. Service,
R/o H.No. 1-15-940, Near Masjid,
Taj Nagar, Nanded Tq. & Dist. Nanded

16. Sachinkumar s/o Prabhakar Bandewar,
Age 38 years, Occu. Service,
R/o Sanket Nagar, Taroda, Nanded
Tq. & Dist. Nanded

17. Ravikant s/o Madhavrao Ambulgekar,
Age 41 years, Occu. Service,
Flat No.302, Sanman Pride,
Borban, Vazirabad, Nanded
Tq. & Dist.Nanded

18. Anil s/o Bhagwanrao Waghmare,
Age 34 years, Occu. Service,
R/o Near Airport, Hingoli Road, Nanded,
Tq. & Dist. Nanded

19. (Deleted)

20. Deepali Chandrakant Pohare,
Age 35 years, Occu. Service,

R/o Bank Colony, Waman Nagar, Nanded,
Tq. & Dist.Nanded

21. Mahesh s/o Ramaswamy Chennoji,
Age 38 years, Occu. Service,
R/o H.No.1-10-210, Kailash Nagar,
Bhagya Nagar Road, Nanded
Tq. & Dist.Nanded ..Petitioners

Versus

1. The State of Maharashtra,
Through Secretary,
Technical Education Department,
Mantralaya, Mumbai-32

2. Joint Director of Technical Education,
Aurangabad, Near Government Polytechnic
College, Osmanpura, Post Bag No.516,
Station Road, Taluka and Dist. Aurangabad

3. Chairman,
All India Council for Technical Education,
Nelson Mandela Marg,
Vasant Kunj, New Delhi 110 057

4. Registrar,
Swami Ramanand Tirth Marathwada University,
Dnyan Tirth, Vishnupuri, Nanded,
Tq. And District Nanded

5. Registrar,
Dr. Babasaheb Ambedkar Technological University,
Vidyavihar, Lonere, Raigad,
Tq. And District Raigad

6. Secretary,
Mahatma Gandhi Mission,
N-6, CIDCO, Aurangabad
Tq. & Dist.Aurangabad

7. Principal,
Mahatma Gandhi Mission's College of Engineering,
Hingoli Road, Near Airport, Nanded,
Tq. And Dist. Nanded ..Respondents

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Advocate for Petitioners : Mr. S.V. Natu h/f Mr. V.P. Golewar
AGP for Respondent/State : Mr. A.S. Shinde
Advocate for Respondent Nos.7 to 9 : Mr. R.N. Dhorde, Senior Counsel i/b Mr. V.S. Kadam
Advocate for Respondent No.3 : Mr. Chaitanya V. Dharurkar
Advocate for Respondent No.5 : Mr. K.M. Suryawanshi
Advocate for Applicants in CA : Mr. V.D. Salunke h/f Mr. M.V. Salunke

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CORAM : S.G. MEHARE AND SHAILESH P. BRAHME, JJ.

RESERVED ON : FEBRUARY 03, 2025

PRONOUNCED ON : MARCH 03, 2025

JUDGMENT :- (PER S.G. MEHARE, J.)

1. Rule. Rule made returnable forthwith. Heard finally with the consent of the parties.

2. Since both writ petitions are having identical issues, taken up for common judgment and order.

3. Both petitions are filed by Bhartiya Kamgar Sena for and on behalf of its members.

4. Writ Petition No.13897 of 2018 is filed by the Bhartiya Kamgar Sena through its office bearers and rest of the petitioners were its members and employees of Mahatma Gandhi Mission Trust. They were employed in the college set up by the trust in Nanded. Admittedly, they are the employees. They had filed writ petition for extending the pay scale under 7th pay commission. That would be applied to petitioner nos.7 to 21. They have also claimed the payment of arrears in terms of the pay scale under 6th pay

commission. They have given the details of their salary and the proposed pay scale as per 6th pay commission. Their pay scale has been prescribed by AICTE, State Government in terms of the notification dated 05.03.2010 and Government Resolution dated 20.08.2010. It is the contention that refusing to pay the pay scale is arbitrary and illegal. They are entitled to the pay band of Rs.15,600, with AGP 6000, DA 23%, HRA. Respondent nos.6 and 7 are in arrears of Rs.1.8 crores towards the salary of petitioner nos.7 to 21. In alternate, they have prayed to withdraw the affiliation granted in favour of respondent nos.6 and 7 by the State Government, AICTE and respective universities.

5. Respondent nos.6 and 7, the contesting respondents, have filed their affidavit in reply. They have raised the dispute that the petitioner did not come with clean hands and on various questions and facts involved in the writ petition are not tenable. Since the petitioners are the teaching staff, they have alternate efficacious remedy before the grievance committee established by respondent nos.4 and 5 University. The relief claimed by the petitioner could be considered by the grievance committee under the Maharashtra Public University Act, 2016. The locus of petitioner nos.1 to 6 have also been impugned. They also contended that respondent nos.6 and 7 institute did not deny the benefit of salary in accordance with the pay scale prescribed by 6th pay commission recommendation to the

petitioner nos.7 to 21. They have also disputed their appointments for not following the procedure contemplated under the Maharashtra University Act, 1994. Therefore, the terms and conditions of appointment order cannot be disputed by the petitioners. It was purely a contract between the employer and employees, which they had accepted at the relevant time. They have accepted the salary paid to them while appointing them on temporary basis. Therefore, the petitioners are estopped from raising any such dispute. Even the engineering college run by the government, 30% staff is appointed on consolidated salary. The AICTE has also permitted to appoint the teaching staff on consolidated salary. Therefore, no rules have been violated as contended in the writ petition. Therefore, this Court cannot issue directions to compel them to implement the recommendation of 6th pay commission to the petitioners as they were not appointed by following the due procedure of law and by duly constituted selection committee. The petitioners cannot file the writ petition in representative capacity. The petitioner even is not a democratic union formed for the purpose of ventilating the grievance of employee. The union cannot ask for directions to take action against the institute for withdrawal of the recommendation and cancellation of affiliation which amounts to closure of the institution. As per rules and regulation of AICTE, petitioner nos.7 to 21 are not entitled to the pay scale as contended in the writ petition. Since their selection was not as per the procedure, their proposal for approval to the university was not submitted. In the light of this situation, they cannot be considered as approved and on permanent posts and acquired the permanency.

6. As per the terms and conditions of the appointment orders issued to respondent nos.7 to 21, it was specifically mentioned that the pay scale and allowance will be paid as prescribed by MGM's Trust from time to time. The appointment order discloses that their appointments would be temporary and on contractual basis. Hence, they are also not entitled to seek directions as they sought in the petition. At the time of enacting the Marathwada University Act, 1974, the policy in respect of the unaided institutes was not in existence. There was no occasion for the legislature to contemplate any rules and regulations governing service conditions of private unaided institute like respondent no.7. Therefore, the general directions of the State Government would not prevail over the Marathwada University Act, 1974. In nutshell, it is their reply that for the above reasons, the recommendation of 6th pay commission would not be applied to their institution. Therefore, denying all the statements of the petitioners, they have prayed to dismiss the writ petition.

7. The facts of Writ Petition No.14395 of 2019 in brief were that the petitioner was the union representing its employees filed the

writ petition for implementing 7th pay commission. They have the case that in the earlier round of litigation when the 6th pay commission recommendation was not applied, this Court had directed respondent nos.6 and 7 to apply the 6th pay commission. The matter was taken to the Hon'ble Supreme Court. The Hon'ble Supreme Court had dismissed the writ petition of contesting respondent nos.6 and 7. The Hon'ble Supreme Court warned the contesting respondents that for such a pay scale on the recommendation by the pay commission, the employee should not be forced to knock on the doors of the Court of law. A contempt proceeding was filed and the contempt petition was disposed of on the settlement terms and conditions and the issue of pay scale as per the 6th pay commission was set at rest. In view of the settlement terms, the contesting respondents has agreed to pay the agreed amount in installments. However, it is yet not complied with. Few of the petitioners have been retired. Again, pay scale as per the 7th pay commission was not applied. Even after warning of Hon'ble Supreme Court want to the contesting respondents, they have to knock the doors of the Court of law to seek the directions against them to implement and apply pay scale as per 7th pay commission with effect from 01.01.2016 as prescribed in notification dated 01.03.2019 issued by AICTE, Government Resolutions dated 08.03.2019 and 11.09.2019 and notification dated 07.09.2019 issued by the State Government.

8. The contesting respondents have also filed the affidavit in reply and raised identical questions as raised in the earlier petition. However, to avoid repetition, those are not reproduced. During the course of arguments, the contesting respondents have placed certain proposals that the petitioners should sit across the table with the management to find out the solution. The arguments of the contesting respondents reveal that the college is not running good and facing financial crisis. Hence, unable to pay the claims as claimed by the petitioners. It also appears that the contesting respondent is applying the past successful method of getting the dispute settled by securing undertaking from employees under the threat of closing down the college and with uncertain delay in clearing the arrears. Hence, they were forcing for sitting across the table.

9. The civil applicants who are the employees of the contesting respondents, appeared through counsel and contended that respondent no.10 institute is running on permanent no grant basis. During the pendency of the present writ petition, respondent no.9 established MGM university with prior approval of the State Government. Indirectly, they appear to be in the shoe of the contesting respondents. In addition to that they had submitted that the affairs of the institute depends upon the fees collected from the students. Since last many years, the admissions were falling down. Their contention appears supporting the contesting respondents on

the financial condition and low admissions in the colleges. Any how they wanted to be in employment at the term of the employer. The gist of their petition is that due to the demand of the petitioners which are impracticable and by cutting a tree, their nest is going to destroy.

10. With the above background, we have heard the respective counsels at length and find that the questions for determination is, can the defence raised by the contesting respondents would survive and the decision of the AICTE, government resolutions would not apply to the institutions?

11. The another questions arise for determination were, does the petition is tenable as alternate efficacious remedy is available to the petitioners in view of the Maharashtra Universities Act, 2016.

12. The most relevant question that is to be answered is, can the contesting respondents be exempted from paying the arrears of salary and applying the pay scale as per 7^{th} pay commission recommendation under threat that they have no option except to close down the college.

13. In view of the submissions of the intervenors, can the right of the petitioners be denied.

14. Both respective counsels have placed on record the case laws. Those will be considered in due course.

15. Most of the facts are admitted. Hence, need not be reproduced. The two groups of the employees are fighting against each other. One group, who are the petitioners in this writ petition claiming the remuneration from the management for which they are entitled in view of the implementation of 7^{th} pay commission to them. In the earlier round of litigation, the same employees have to knock the doors of the law for implementing 6^{th} central pay commission to them which was undisputedly made applicable to the institution run by the management. The AICTE is the statutory body of the Government of India which provides for establishment of an All India Council for Technical Education with a view to the proper planning and co-ordinate development of the technical education system throughout the country, the promotion of qualitative improvement of such education in relation to planned quantitative growth and the regulation of proper maintenance of norms and standards in the technical education system and for matters connected therewith. The AICTE provides for regulation for grant the approval for starting new technical institutions and other matters connected therewith. There is no dispute that the government of Maharashtra by a Government Notification dated 11.09.2019 had applied the revision of pay scales minimum qualification for appointment, terms and conditions of the teachers and other academic staff, even applicable to the autonomous institutions. By this notification, 6^{th} pay commission pay scale was

applied. It is seriously disputed that by following the due procedure of law, 7th pay commission was also applied and the revision of pay scale was implemented.

16. Few of the petitioners have been retired. They have rendered their services for sufficient time without any interruption and stigma. The management ever not took any action against their services rendered. However, to dodge the implementation of 7th pay commission, the management came with the defence that their appointments were not in accordance with the law is nothing but a futile attempt against the rule of estoppel. The management was well aware when it sought the approval from the AICTE and other authorities to run the college where the petitioners were appointed permanently on unaided basis. Mahatma Gandhi Mission Trust was in existence and continuously expanding the education institutions to impart the quality education to the students at various places. Under one roof, the trust runs various colleges at various places. A conscious decision was taken by the trustees to open the colleges where the petitioners were employed under the permanent no aid basis. Perhaps the decision was with a confidence that they would be able to arrange for the finance required to run the colleges. Though it has been tried to portray that the colleges were unable to run on the basis of the admission, we do not agreeable with such submissions for the simple reason that parting education is not a profiteering industry. It

is a charity for the welfare of the society. The charity institutions run on the donations and various sources to impart the education.

17. Learned senior counsel Mr. Dhorde put on record a statement of the accounts of the colleges where the petitioners were appointed. Placing it on record, he would argue that the colleges are facing financial deficiency of crores of rupees. Placing the document on record, he tried to convince the Court that the act of the management were not deliberate to dodge the salary. Another limb of his argument was that the economic viability is an important consideration for determining the wage structure and pay revision. To bolster his argument, he relied on the case of *Punjab State Cooperative Milk Producers Federation Limited and Another Vs. Balbir Kumar Walia and Others, (2021) 8 SCC 784*. In that case, the petitioner was a cooperative milk producers federation. It was a industry. Every such industry runs on the principle of profit making on investment. This case law dealt with the doctrine of equal pay for equal work. The education institutions are admittedly not the industries atleast for the purpose of profiteering. The case law is put into service with an argument that the High Court has very limited scope of judicial review the fixation of pay scales and its revision. Herein the case at hand, the institution runs under the regulation of AICTE Act. The appointments were also in pursuance of the regulations. The aspirants, who were invited for the appointments

were impressed that the trust is competent to bear with their salary and other benefits. The trust/management has gained the confidence of the aspirants for the employment in their institution with a legitimate expectation that they would be paid the salary and other benefits they deserve in view of the regulations applied to them. The institution was not like the industry where there used to be an agreement between the employer and the employee for fixing the pay scale and its revision after certain duration. The institutions run by the management were under the control of AICTE as well as the State Government. So, the logic of economic viability of the institution may not be a ground to dodge the pay scale, which was applied to the petitioners pursuance to the government resolutions as well as the regulations framed under the AICTE Act. Once the government has determined the pay scale and a conscious decision is taken for applying the revision to the pay scales under the central pay scale commission, it would not lie in the mouth of the management that the question raised before the Court has very limited jurisdiction to review the same.

18. Learned counsel for the petitioner has rightly pointed that there is no question of pay fixation and its revision. Their pay was already fixed under the regulations mentioned above and they were paid for a longer time. However, the revision of their pay was governed under the pay commission and they just wanted to

implement the government notification/resolution to apply the 7th pay commission as well as the regulations framed by the AICTE for their employment. In view thereof, we are of the view that this case would not assist the respondent/management.

19. So far as the other employees, who appeared in this Court by way of an intervention application is concerned, they are literally in the shoe of the management. Since the financial condition of the institution is viable as per the contention of the management, they agreed to receive the salary at the whims of the management. However, they have been shown the dream that their salaries would be paid as and when economic condition of the college would improve. With the shield of other co-employees, the management intends to bow the petitioners before them to settle the dispute as earlier the petitioners had settled the dispute due to the fear of closing the college and losing the job permanently. This fear appears to have been kept alive in the mind of the employees who are before the Court by way of an intervention application.

20. We have already expressed our opinion that when the management had decided to open the college on permanent non-aid basis, the management was confident that they would be able to run the college without any financial support from the government and in any event. So, putting the employees under threat of closing down the college and throwing them away from job should not be used as a

weapon to deprive the employees to get their pay for the services they had rendered. Opening the education institution and closing down it at the whims of the management could also not be accepted more particularly for the economic crisis. The AICTE is the regulating authority and for such reasons, the AICTE should not accept the proposal for closing down the college without protecting the employment of the employees, who are rendering the services for years together and who are otherwise age barred in getting another employment. At the cost of repetition, we may say that such a education institution should not be closed down at the whims of the management. There are many examples when the trust is unable to run the college, such colleges are entrusted/transferred to another institutions which is willing and capable to run the same and this practice probably might have been accepted to protect the employment of the employees who have spent their lives for the institution and they should not be thrown on the road at the whims of the management or their incapacity to run the institution. A fact that must be borne in mind is that the colleges in which the petitioners are the employees are run by the Mahatma Gandhi Mission Trust. As we have already observed above that the education institution are not the profiteering industries, there may not be a ground to close down the college where the petitioners are employees only for having no good number of students and income source of the particular college. The management should bonafide produce the entire balance sheet of the trust. But, this seems to have deliberately not done with a view to threat the employees of losing their job permanently.

21. The co-employees who are opposing the petition through Advocate Shri Salunke in fact have no right to seek the injunction or deny the right to the petitioners of their legitimate right to get the pay scale as per the regulation. Considering their conduct, accepting the terms and conditions of the management to render the services at the remuneration the management is intending to pay is their choice, probably they had their own reservations. Merely, the petitioners seeking implementation of 7th pay and they may be losing employment permanently is not a ground to refuse the legitimate right of the employees. Therefore, we do not find substance in the argument of the learned counsel Mr. Salunke that the petitioners are cutting the trees for their benefits and destroying the nests of others. We have already cleared above that closing down the institution at the whims of the management is unsustainable for the reason that there are certain rules and regulations for running the colleges.

22. Mr. Salunke relied on the case of *Shri Saibaba Gramin Vikas Sanstha, Gadchiroli and another Vs. Rashtrasant Tukdoji Maharaj Nagpur University and others, 2011 (3) Mh.L.J., 790*, to bolster his argument that the petitioners have an alternate remedy for implementation of the pay commission. In this case, Section 57 of the

Maharashtra Universities Act was referred to and it has been observed that the grievance committee is empowered to hear grievances and forward the report to the Management Council which alone is empowered to take the final decision and pass an appropriate order. Considering the overall facts of the case and the issue involved in the matter with earlier round of litigation, we are of the opinion that this case would not help Mr. Salunke. In fact, the co-employees as observed above has no right to defeat the interest of the petitioners. We hold that the intervenors have very limited right much less than no right to oppose the petition of the petitioners.

23. The case of *Maharashtra University of Health Sciences and Ors Vs. Satchikitsa Prasarak Mandal and Ors, 2010 AIR SCW 1923*, *Jaipur Vidyut Vitran Nigam Ltd Vs. MB Power (Madhya Pradesh) Limited, AIR 2024 SC 721* relied on by the learned counsel Mr. Salunke appears not relevant to the issue involved in this case. He also relied on the case of *Tata Engineering and Locomotive Company Limited Vs. Their Workmen, (1981) 4 SCC 627* which was dealing with the dispute under the Industrial Disputes Act, 1947. The issue involved in that case was also altogether different. The rules for the settlement of the pay scales is dealt with under the Industrial Disputes Act, 1947. We have already observed above that the services of the petitioners are governed under the AICTE regulations and the

government notification mentioned above. Hence, we are of the opinion that this case would also not help the invervenors.

24. As discussed above, the management has tried to dodge the implementation of 7th pay scale raising the objection that the appointments of the petitioners were not according to law. At the relevant time, Maharashtra Universities Act was in force. We are not in agreement with the argument of the learned senior counsel Mr. Dhorde. No objection at any time about their appointments was raised. The appointment of the petitioners were perfectly in accordance with law and they have rendered their services for long time. So, they cannot be thrown away at this juncture. Such a defence would not lie in the mouth of the management.

25. With the able assistance of the respective counsels, we have gone through the papers, relevant regulations and resolutions of the government and satisfied that the petitioners deserve the pay scales and arrears of pay as per 7th pay commission. The grounds raised by the management as well as the intervenors do not stand to the legal test. The management cannot deny the salary for the services rendered by the petitioners on the settled terms and conditions and regulations of the employment. We do not find substance in the defence. Hence, we discard it and pass the following order :

ORDER

(i) Both writ petitions are allowed.

(ii) The respondent/management is directed to implement recommendations of 6th and 7th pay commission to all the petitioners, who are in service and retired forthwith and pay them the salary and arrears of salary with retiral benefits to the employees who have retired within four months from today.

(iii) Civil Application No.2912 of 2024 stands disposed of.

(iv) Rule is made absolute in above terms.

(v) No order as to costs.

(SHAILESH P. BRAHME, J.) **(S.G. MEHARE, J.)**

26. After the judgment is pronounced, the contesting respondent is asking for the stay to the judgment for six weeks.

27. This is an interesting case. In the earlier round of litigation same respondents were directed to apply the 6th Pay Commission benefits. Under the garb of closing down the college, the employees were compelled to settle the dispute. We have already observed that such practice cannot be applied by the employer. It put the employees under threat of closing down of college. Petitioners are waiting for their pay for last eight years. We have also been told that as per earlier settlement the 6th Pay Commission salary has also not

been paid. In view of the facts of the case, we do not find to keep employees again waiting for their right. Hence, we reject the prayer for stay to the judgment.

(SHAILESH P. BRAHME, J.) **(S.G. MEHARE, J.)**

Mujaheed//